3

(3)

समक्ष माननीय मध्य प्रदेश राज्य प्रशासनिक अधिकरण, रायपुर-खण्डपीठ, रायपुर (छ.ग.)

WP(S) 5152/03

ओ.ए. क्रमांक : /2002

आवेदक : ज्ञान सिंह कंवर, आयु 41 वर्ष
आत्मज श्री दुलार सिंह कंवर
उच्च श्रेणी शिक्षक पद पूर्व पदस्थापना - छुरिया
पदस्थापना - हाईस्कूल साल्हे, विकासखंड - छुरिया,
जिला - राजनांदगांव (छ.ग.)

वि रू द्ध

अनावेदकगण :

(1) छत्तीसगढ़ शासन,
द्वारा : प्रमुख सचिव,
स्कूल शिक्षा विभाग,
डी.के.एस. भवन,
रायपुर (छ.ग.)

(2) संचालक,
लोक शिक्षण संचालनालय,
रायपुर (छ.ग.)

(3) जिला शिक्षा अधिकारी,
जिला - राजनांदगांव (छ.ग.)

(4) प्राचार्य,
उच्चतर माध्यमिक शाला साल्हे, वि.खं.-- छुरिया,
जिला - राजनांदगांव (छ.ग.)

आवेदन पत्र अंतर्गत धारा 19 मध्य प्रदेश राज्य प्रशासनिक अधिनियम.

(5)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 2505 of 2005

Petitioners : Chandresh Kumar Baghel and others

Versus

Respondents : State of Madhya Pradesh (Now Chhattisgarh) & others

W. P. (s) No. 4232 of 2005

Petitioner : Lakhan Lal Bhuwarya

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4234 of 2005

Petitioner : Smt. N. Ram

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4270 of 2005

Petitioner : Champalal Dewangan

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4271 of 2005

Petitioner : Tareshwar Das Sahu

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4272 of 2005

Petitioner : Ku. Saroj Yadav

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4273 of 2005

Petitioner : Sudama Lal Sahu

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4274 of 2005

Petitioner : Lal Kumar Sahu

Versus

Respondents : State of Chhattisgarh & others

W. P. (s) No. 4275 of 2005

Petitioner : Kanhaiya Lal Sahu
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4276 of 2005

Petitioner : Saud Ahmad Asharfi
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4277 of 2005

Petitioner : Hemant Kumar Deshmukh
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4278 of 2005

Petitioner : Narendra Kumar Verma
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4279 of 2005

Petitioner : Girdhar Lal Sao
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4439 of 2005

Petitioner : Indra Kumar Sahu
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5152 of 2005

Petitioner : Gyan Singh Kanwar
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5153 of 2005

Petitioner : Ramesh Kumar Sinha
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5154 of 2005

Petitioner : Dayalu Ram Choudhary
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5155 of 2005

Petitioner : Gajendra Das Vaishnav
Versus
Respondents : State of Chhattisgarh & others

And

W. P. (s) No. 5156 of 2005

Petitioner : Bhan Singh Thakur
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Rakesh Anthony, Advocate for the Petitioners.
Shri V.V.S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate for the State/respondents.

ORDER

(31st October, 2006)

1. The petitioners are working as Upper Division Teachers/Assistant Teachers in the government schools. In the course of their services as Upper Division Teachers/Assistant Teachers, the petitioners have obtained B.Ed./B.T.I. examination certificates on their own expenses before 1.3.1999.

2. Writ Petition (s) No.s 2505/2005, 4232/2005, 4234/2005, 4270/2005, 4271/2005, 4272/2005, 4273/2005, 4274/2005, 4275/2005, 4276/2005, 4277/2005, 4278/2005, 4279/2005, 4439/2005, 5152/2005, 5153/2005, 5154/2005, 5155/2005 and 5156/2005 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I.

(60)

Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly

(61)

concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed./B.T.I. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

8. A copy of this order be placed on record of connected matters.

Sd/-
Satish K. Agnihotri
Judge